

1 Honorable Judge Brian D. Lynch
2 Chapter 13
3 Hearing Location: Tacoma
4 Hearing Date: March 25, 2020
5 Hearing Time: 1:30 p.m.
6
7

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re:
Bonni Jeanne Parker,
Debtor.

CASE NO.: 20-40229-BDL
CHAPTER 13
OBJECTION TO CONFIRMATION
BY WELLS FARGO BANK, N.A

Wells Fargo Bank, N.A (“Creditor”), objects to confirmation of the proposed chapter 13 plan (The “Plan”) of Bonni Jeanne Parker (“Debtor” herein). The basis for this objection is that the Plan does not comply with the provisions of Title 11, chapter 13 of the United States Bankruptcy Code and thus should not be confirmed by the Court.

I. BACKGROUND

On or about August 27, 2008, Bonni Jeanne Parker executed and delivered a note in favor of Wells Fargo Financial Bank in the original principal amount of \$20,000.00. This Note was secured by a Deed of Trust (“Deed”) encumbering real property commonly described as 1733 South Proctor St, Tacoma, WA 98405 (“Property”). Creditor is the holder of the note or services the note for the holder.

On January 27, 2020, Debtor filed for protection under Title 11, chapter 13 of the United States Code under cause number 20-40229-BDL in the above listed court.

The outstanding balance due on the Note as of filing is \$16,978.71. The pre-petition arrears, including payments, late charges, escrow advances and accrued fees and costs are approximately \$1,156.00 as detailed in Creditor’s filed proof of claim. The monthly payment due as of the filing date was \$289.00.

1

2 **II. ARGUMENT AND AUTHORITY**

3

4 Under 11 U.S.C. § 1325(a)(5) the Court shall confirm a plan only if as to each secured
5 claim the claim holder accepts the plan and the plan provides for distribution to that creditor in
6 an amount not less than the value of the allowed secured claim. In the case at bar, the Debtor
7 acknowledges the secured claim of Creditor in the filed schedules, but fails to provide any
8 payment on the lien.

9 Under 11 U.S.C. § 1325 (a)(1) and 1322 (b)(2) a plan may not modify the rights of a
10 holder of a claim secured only by an interest in real property that is the Debtor's personal
11 residence. Further, under 11 U.S.C. § 1325 (a)(1) and 1322 (b)(5) a plan must provide for the
12 cure of an existing default within a reasonable time and require the maintenance of payments
13 while the case is pending on a secured claim on which the last payment is due after the date on
14 which the final payment under the plan is due. Because the plan fails to provide for any payment
15 on the obligation, neither of the above conditions is met.

16 **III. CONCLUSION**

17

18 For the reasons listed above, the chapter 13 plan as proposed fails to comply with the
19 requirements of United States Code Title 11. Therefore, Creditor respectfully requests the Court
20 deny confirmation of the proposed Chapter 13 plan. If the court sustains this objection and
21 denies confirmation, Creditor respectfully requests that the Court set a deadline by which an
22 amended plan is to be filed. Creditor further requests that if the Debtor does not file the
23 Amended Plan by the date imposed by the Court, the Trustee be permitted to submit an order
24 dismissing the bankruptcy case for failure to comply with the order of the court.

25 Dated: March 11, 2020

McCarthy & Holthus, LLP

26 /s/ Lance E. Olsen

27 Lance E. Olsen, Esq. WSBA# 25130
28 Michael S. Scott WSBA# 28501
29 Attorneys for Movant

CERTIFICATE OF SERVICE

On 3/11/2020, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by electronic means through the Court's ECF program:

TRUSTEE
Michael G. Malaier
ecfcomputer@chapter13tacoma.org

DEBTOR'S COUNSEL
Ellen Ann Brown
stopdebt@gmail.com

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Salvador Arroyo
Salvador Arroyo

On 3/11/2020, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by depositing true copies thereof in the United States mail, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEBTOR

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Hue Banh
Hue Banh